

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN ALLAN WALTERS**, on February 14, 2001
at 8:00 A.M., in Room 455 Capitol.

ROLL CALL

Members Present:

Rep. Allan Walters, Chairman (R)
Rep. Debby Barrett, Vice Chairman (R)
Rep. Tom Dell, Vice Chairman (D)
Rep. Norma Bixby (D)
Rep. Dee Brown (R)
Rep. Donald L. Hedges (R)
Rep. Hal Jacobson (D)
Rep. Larry Jent (D)
Rep. Michelle Lee (D)
Rep. Larry Lehman (R)
Rep. Ralph Lenhart (D)
Rep. Gay Ann Masolo (R)
Rep. Douglas Mood (R)
Rep. Alan Olson (R)
Rep. Rick Ripley (R)
Rep. Clarice Schrumpf (R)
Rep. Frank Smith (D)

Members Excused: Rep. Holly Raser (D)

Members Absent: None.

Staff Present: Sheri Heffelfinger, Legislative Branch
Ruthie Padilla, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 452, 2/7/2001; HB 63,
2/7/2001
Executive Action: HB 472; SB 123; HB 450

HEARING ON HB 452

Sponsor: REPRESENTATIVE JAMES WHITAKER, HD 41, GREAT FALLS

Proponents: Jerry Williams, Montana Police Protective
Association
Tom Schnieder, Montana Public Employees
Association
Ken Dove, Montana Police Protective Association
Dave Cardillo, Billings Police Department
Troy McGee, Montana Chief of Police Association

Opponents: None

Informational: Mike O'Connor, Montana Public Employees Retirement
Administration
Jim Smith, Montana Peace Officers Association
Carol Lambert, Board Member

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 0}

REPRESENTATIVE JAMES WHITAKER, HD 41, GREAT FALLS stated the bill is an act establishing a deferred retirement option plan in Municipal Police Officers Retirement System. It specifies eligibility, participation criteria, contributions and interest rate credited, survivorship benefits and distribution options.

Proponents' Testimony:

{Tape : 1; Side : A; Approx. Time Counter : 1.6}

Jerry Williams, Montana Police Protective Association said he is here representing the 530 members of the association. This bill establishes a retirement plan often called a DROP. The DROP allows a member with 20 years of service the opportunity to invest while continuing to work. The member will notify the retirement division that they want to join the DROP. The retirement division will then begin to deposit the member's monthly retirement amount into the DROP account. The division will continue the process until the member stops or for a period of five years. The member must have

at least 20 years of service. The DROP is totally voluntary and a member may only participate one time. The DROP plan is cost neutral and may generate some saving to the system. The plan will allow an individual to stop working and really retire because the member will have a sum of money that should take care of health insurance concerns. It will also allow cities to keep experienced and educated officers for a few years longer than they normally would and will save money on recruiting and saving.

Tom Schnieder, Montana Public Employees Association stated they want to go on record supporting the bill. This is a new concept in Montana, but basically gives additional years of service to police officers, who under a normal circumstance would simply retire after 20 years of service and go find a job somewhere else where they can earn a second retirement benefit. The DROP program will allow them to stay and do the job they have been trained for.

Ken Dove, Montana Police Protective Association asked the committee for their support of the bill.

Dave Cardillo, Billings Police Department also asked the committee for the support of the bill.

Informational Testimony:

{Tape : 1; Side : A; Approx. Time Counter : 9.2}

Mike O'Connor, Montana Public Employees Retirement Administration submitted and explained information on the Deferred Retirement Option Plan(DROP) in how the plan would work.**EXHIBIT (sth37a01)**

Jim Smith, Montana Peace Officers Association said the sheriff and piece officers are also interested in the DROP plan. It is an option to allow local governments to keep and retain experienced employees if the employee wants to keep working. They feel it is a good option and may return next legislation with a similar piece of legislation for their retirement plan.

Questions from Committee Members and Responses:

{Tape : 1; Side : A; Approx. Time Counter : 20.8}

REPRESENTATIVE SMITH asked if they could receive the lump sum at the end of the five years. **Mike O'Connor** stated after the five

years they can opt for a lump sum, or roll it into an IRA and continue receiving the monthly payment from the DROP account. **REPRESENTATIVE SMITH** then clarified how they could draw a higher retirement payment. **Mike O'Connor** replied when an individual opts to participate in DROP, they no longer accrue service time. Their retirement benefits are based on 20 years of service. **REPRESENTATIVE SMITH:** How many individuals will be affected by the bill? **Mike O'Connor** replied it is an assumption that 50% of the individuals eligible would collect the full five years and 50% will collect after three ½ years.

REPRESENTATIVE BROWN asked if this bill passes, will all the other retirement systems be returning next session asking for the same DROP plan. **Mike O'Connor** said he can see the public safety systems returning but it is not a good idea for PERS and TRS systems.

REPRESENTATIVE LEHMAN asked what is the advantage of the DROP program verses continuing contributions to their regular retirement program. **Mike O'Connor** said the advantage is being able to have a partial lump sum at the end of the five years. The disadvantage is you do not continue to accrue the two ½% per year service and do not get the increase benefit at the end of the five years. It is a takeoff that is going to have to be done on an individual basis. **REPRESENTATIVE LEHMAN** then asked is the lump sum taxable at the end of the five years? **Mike O'Connor** replied yes, when they actually receive the money.

REPRESENTATIVE MASOLO asked how are going to notify the employees that are eligible for DROP? **Mike O'Connor** said approximately 75 individuals are eligible. They will put a brochure in the pay envelope or mail to their homes. They have hired additional benefit counselors to work with the association.

REPRESENTATIVE MOOD The employee agrees to use the 20-year retirement date, but continue to work and make their contributions to DROP. **Mike O'Connor** replied that is correct. **REPRESENTATIVE MOOD** stated the retirement account would be treated as an annuity. **Mike O'Connor** replied the payment they receive is like a retirement account but deposits a portion to DROP. **REPRESENTATIVE MOOD** said a retirement account is a benefit given to workers when they retire. The employee's contribution is payable to the employee if he quits, therefore it is considered an annuity. This shifts the focus from retirement to an investment. **Mike O'Connor** said it can give them a monthly payment with a partial lump sum.

They cannot have access to these funds until they terminate. **REPRESENTATIVE MOOD** asked if the DROP program was brought in from other states and asked for a background on the DROP program. **Mike O'Connor** replied it originated Louisiana and Florida and is popular in the southern states.

REPRESENTATIVE RIPLEY asked if there is a maximum amount that can be rolled into an IRA. **Mike O'Connor** replied there are no limits on an amount.

REPRESENTATIVE LEHMAN asked if the DROP program would cause any unfunded liability problems. **Mike O'Connor** replied this plan is designed so there is no unfunded liability. **REPRESENTATIVE LEHMAN** then asked what would be an average lump sum distribution from the DROP program. **Mike O'Connor** said an individual with 20-24 years of service and an average salary of \$45,000.00, and the monthly benefit would be \$2,250.00 for a total of benefit of \$112,000.00 not including interest.

REPRESENTATIVE DELL clarified this plan is a defined contribution program within a defined benefit program. **Mike O'Connor** replied yes, you can see it that way. **REPRESENTATIVE DELL** asked if you can take the lump sum from the DROP program and buy more years of retirement with the money. **Mike O'Connor** said if you had years of service available to purchase. In public safety systems, purchasing years of service at retirement, it is a huge expense and not a wise idea.

REPRESENTATIVE HEDGES stated over the years police officers have come to this chamber and said it is a young mans job and they need retire at 20 years and so they moved their retirement down to 20 years. Now they are saying they want to take retirement at 20 but want to work five more years. **Jerry Williams** said when the 20-year retirement legislation was passed, their argument was it was a young persons job. In the past 10 years they found their members are retiring and immediately secure other employment. They are securing other employment because they cannot live on the 20-year retirement. Over the last five years they have been trying to develop a plan where officers retire and then remain on the job five or six years. Many officers are taking jobs with the State that someone else is qualified for. Their members do not want to secure other employment they want to enjoy retirement, but the 20-year retirement does not provide enough money for security for them. This plan would provide that financial security.

REPRESENTATIVE SMITH stated every session there are to allow employees wants to work a longer. What if they just raised the retirement to 25 years of service. **Ken Dove** replied they like the idea of having the flexibility.

REPRESENTATIVE MOOD asked if there was a reason this retirement system was the first to ask for the DROP program. **Mike O'Connor** replied the police association was the ones researching the program and attending national conferences on the DROP program. They just happen to be the ones who initiated it.

Closing by Sponsor:

{Tape : 1; Side : B; Approx. Time Counter : 25.2}

REPRESENTATIVE WHITAKER thanked the committee for a good hearing and asked for a do pass on the bill.

HEARING ON HB 63

Sponsor: **REPRESENTATIVE TOM DELL, HD 19, BILLINGS**

Proponents: **Melanie Symons, Public Employees Retirement Board**
Carol Lambert, Public Employees Retirement
Tom Bilodeau, MEA-MFT
Pat Clinch, Montana State Council of Firefighters
Mike O'Connor, Montana Public Employees Retirement
Administration

Opponents: **Glen Leavitt, Montana University Systems**

Opening Statement by Sponsor:

{Tape : 1; Side : B; Approx. Time Counter : 26.1}

REPRESENTATIVE TOM DELL, HD 19, BILLINGS said he is presenting this bill on behalf of the State Administration Interim Committee. This bill would provide disability benefits to members of PERS, who are future members of the defined contribution fund. He provided a brochure and some background information on this bill. **EXHIBIT(sth37a02) EXHIBIT(sth37a03)**

Proponents' Testimony:

{Tape : 2; Side : A; Approx. Time Counter : 5.4}

Melanie Symons, Public Employees Retirement Board submitted written testimony. **EXHIBIT**(sth37a04)

Carol Lambert, Public Employees Retirement Board said they are in favor of the bill and feel it is a fairness bill.

Tom Bilodeau, MEA-MFT stated they are in support of the bill. The information they have is 1/3 of the workforce will be disabled for six months or longer at sometime during their working career. It is a devastating position to find ones self in. The committee can plan and protect individuals' income, mortgage payments and families by passing this piece of legislation, so all defined contribution participants will have the same protection as defined benefit participants.

Pat Clinch, Montana State Council of Firefighters said they want to go on record as in support of the bill. There are 100 firefighters in Montana who are not currently eligible for the Firefighters Unified Retirement System. These firefighters are under the PERS system and will be eligible for this defined contributions plan when it becomes effective. One of the things that really scare firefighters is the possibility of becoming disabled. 50% of firefighters are injured each year on duty and suffer work time. The disability portion of the defined contribution plan is very important to the members.

Opponents' Testimony:

{Tape : 2; Side : A; Approx. Time Counter : 13.1}

Glen Leavitt, Montana University Systems said they oppose the bill. They are in favor of disability benefits however, the bill duplicates benefits they already provide their employees. They provide disability insurance for all university system employees.
Questions from Committee Members and Responses:

{Tape : 2; Side : A; Approx. Time Counter : 14.3}

REPRESENTATIVE BROWN said she understands the need for the trust

fund, but she has a concern whether or not there is a cap on the fund. Mike O'Connor stated they would only collect the amount of money needed to pay the benefit. They would do an evaluation every other year adjust it accordingly.

REPRESENTATIVE MOOD asked if when an individual is hired as a fireman are they aware they are likely to become injured on the job. Pat Clinch replied one of the things they impress upon them at their initial training is that they do things correctly and safely but that things can happen. REPRESENTATIVE MOOD asked if new hires would be required to go into the defined contribution plan. Pat Clinch said currently all members under PERS are in the defined benefit plan. They will have the option.

REPRESENTATIVE LEHMAN asked if there is a fiscal note attached to the defined contribution plan in terms of additional FTE's to handle the added accounting. Mike O'Connor replied part of the bill was the responsibility of the Retirement Board to have sufficient staff to implement the defined contribution plan. There would be about 4-8 additional staff needed depending how it is administered. REPRESENTATIVE LEHMAN then asked has other retirement systems had problems with insurance companies who offer disability programs. Mike O'Connor stated to his knowledge in the defined benefit plan, they have never received any concerns from the insurance companies.

CHAIRMAN WALTERS asked if the bill passes and a member choose to be part of the defined contribution plan, do they have a way of opting out of the disability portion. REPRESENTATIVE DELL replied no, not the way it is currently written. The disability is part of the defined contribution plan. CHAIRMAN WALTERS then asked if an amendment could be done to make it voluntary to be part of the disability. Mike O'Connor said technically it can be done, but then the individuals who elect into the disability will probably be the ones who become disabled so the cost would increase.

Closing by Sponsor:

{Tape : 2; Side : A; Approx. Time Counter : 26.2}

REPRESENTATIVE DELL said this is a self insured plan. He recommended the committee to focus on the recommendations of the Interim Committee. This bill will not cost the general fund

anything. It was funded last session so the general fund will not have to fund additional employees. This bill is an invested right that provides better employees protection.

EXECUTIVE ACTION ON HB 472

{Tape : 2; Side : B; Approx. Time Counter : 0.9}

Motion: REP. LENHART moved that HB 472 DO PASS.

Motion: REP. LENHART moved that HB 472 BE AMENDED.

Discussion:

Sheri Heffelfinger discussed the amendment with the committee.
EXHIBIT (sth37a05)

Motion/Vote: REP. LENHART moved that HB 472 BE AMENDED. Motion carried unanimously. 16-0

Motion: REP. BROWN moved that HB 472 DO PASS AS AMENDED.

Discussion:

REPRESENTATIVE JACOBSON said many of those individuals affected by this were not notified. It appears there was a break down in communication.

REPRESENTATIVE BROWN stated it seems strange to her that people working in a confined place do not know what is happening. She recognizes they did not have to sign their name but she has a problem with adults saying they did not know anything about it.

REPRESENTATIVE DELL said **REPRESENTATIVE LEE** commented there be a receipt system instituted and he agrees. Everyone should have to sign something saying they at least looked at the information. He feels it should become a statewide personnel policy. Otherwise, this will happen over and over again. He is going to vote for the bill even though he thinks some people knew about the option, but he feels a lot of the responsibility was on personnel.

REPRESENTATIVE OLSON said he worked for the State of Montana in the middle of nowhere and hears about everything. He is going to vote for the bill, but feels they knew what was happening and had plenty of time to opt into the system.

CHAIRMAN WALTERS stated he is going to vote against the bill. He looked at the bill from both sides and feels this is another case of benefits changing and the plan now looking like a better deal than they currently have.

REPRESENTATIVE LENHART said he is going to support this bill, but at the same time he hopes part of this will send a message to many of the people to get with the program.

REPRESENTATIVE LEHMAN stated he is opposed in principal to members of the various retirement systems jumping back and forth, but for the most part this is being done for their advantage. This particular bill puts them in a difficult situation because it is a situation where it is one persons' word against somebody else. He will probably vote for the bill, but is not liking it and would like to see something put into statute to covers situations like this because he does not want to be in this kind of situation again.

REPRESENTATIVE WALTERS said a notification was sent over to them and they had an opportunity to see it. These people also talk to each other and mention this kind of thing to each other. He does not want to see any more windows opened.

REPRESENTATIVE RIPLEY stated there are three different shifts at the prison and it is possible that some of the people did not get the information.

REPRESENTATIVE SMITH said where he hears rumors all the time and is the last to hear anything and sometimes the information is wrong. He feels they should have a chance to opt into the plan.

REPRESENTATIVE SCHRUMPF said she is going to vote for this bill. So they missed it, she feels they should get another chance.

REPRESENTATIVE MOOD stated the facts of the matter is the people who are serving as peace officers belong into this system. He thinks it is worth giving them the opportunity to change over. The two systems are very close as far as the contributions.

Motion/Vote: REP. BROWN moved that HB 472 DO PASS AS AMENDED.
Motion carried 17-1 with Walters voting no.

EXECUTIVE ACTION ON SB 123

{Tape : 2; Side : B; Approx. Time Counter : 20.0}

Motion: REP. BROWN moved that SB 123 BE CONCURRED IN.

Motion: REP. SMITH moved that SB 123 BE AMENDED.

Discussion:

Sheri Heffelfinger explained the purpose of the amendment by
SENATOR JOHN BOHLINGER. **EXHIBIT**(sth37a06)

Motion/Vote: REP. SMITH moved that SB 123 BE AMENDED. Motion
carried unanimously. 18-0

Motion: REP. BROWN moved that SB 123 BE CONCURRED IN AS AMENDED.

Discussion:

REPRESENTATIVE BARRETT said she is going to vote for this bill.
The testimony of the proponents was good reason to do this. One
thing that was not mentioned was all the information legislatures
get from the departments and the state after they are elected.
This would give them time to learn about things they should know.
They deal with bills and are not dealing with other things and that
is one more benefit to this bill.

REPRESENTATIVE WALTERS said he is going to oppose this bill. The
cost is high to rent a motel and to come here for one month, you
more than likely will not be able to get an apartment and will have
to rent a motel for \$1,000.00 a month. You will also have to come
over for caucuses every year. These are the reasons he is not
voting for the bill

REPRESENTATIVE MASOLO stated she also is going to oppose this bill
due to her experience with the special sessions. She thinks a 30-
day session really reduces the opportunity for the public to have
any input. It takes 30 days to figure out what is going on. If
this passes, all she sees is more cost. She is totally against

annual sessions.

REPRESENTATIVE HEDGES said he is not opposed to annual sessions, but the way the bill is currently structured it is mechanically unsound.

REPRESENTATIVE RASER said she is going to support this bill. As a freshman, there was so much to learn. She also likes the idea that everyone will be working with budget issues to become more knowledgeable and be able to make responsible decision.

REPRESENTATIVE RIPLEY said he supports the concept of the bill but is going to vote against the bill because he does not feel his constituents would support it.

REPRESENTATIVE OLSON said it upsets him that as everything passes the committees and goes to appropriations where he cannot participate. He also likes the concept of the bill but is going to vote against it.

REPRESENTATIVE BROWN said she too thinks the bill is a good idea but has received e-mail from people who were upset about them becoming full time legislatures. The same concerns from the proponents have become opponents in her e-mails. She will vote against this bill.

REPRESENTATIVE DELL said this bill is such a major issue especially for his constituents and he does not know where they are at on this issue. He is going to vote for the bill but only because the committee as whole needs to debate this issue on the floor.

REPRESENTATIVE LEHMAN stated he agrees with the concept but the perception of the constituents is they are going to become professional legislatures instead of citizen legislatures. Although he sees this particular set up as offering more opportunity for people to run for office he is going to vote against this.

REPRESENTATIVE JACOBSON said if they so choose to pass this bill it will be presented to the electors, so ultimately the constituents will be the ones deciding whether or not they want them to engage in annual sessions.

REPRESENTATIVE LEE stated it is unfair to not give the people a chance to vote. She is going to vote for this bill because she is

not afraid of what the electors have to say.

CHAIRMAN WALTERS said there have been a number of letters to the editor about the legislatures getting a pay raise. Also, it has been mention that this could be presented to the electors, but it needs to be remembered that they elected the legislatures to make decision. He feels they know how better to vote than the electors.

REPRESENTATIVE HEDGES said he feels they owe it to the people of Montana to go forward with the best constitutional amendment they can and this is not it. He feels it should at least go through an interim committee so it is put together with the exact words they want to be in the constitution for the next thirty years.

REPRESENTATIVE MASOLO stated her agreement for not putting this out to the public is that the issues are very hard for her to understand and she has studied them intensely, let alone the public understanding all the issues. She thinks they can make a better decision as legislatures.

Motion/Vote: REP. BROWN moved that SB 123 BE CONCURRED IN AS AMENDED. Motion failed 9-9.

Motion/Vote: REP. JENT moved that SB 123 BE POSTPONED INDEFINITELY. Motion carried 17-1 with Lee voting no.

EXECUTIVE ACTION ON HB 450

{Tape : 3; Side : A; Approx. Time Counter : 21.9}

Motion: REP. BROWN moved that HB 450 DO PASS.

Motion: REP. BROWN moved that HB 450 DO PASS AS AMENDED.

Discussion:

REPRESENTATIVE BROWN said there was a previous discussion about removing Bozeman Armory from the bill. She spoke with the sponsor about it and she had no knowledge about the armory. They feel this is strictly a Whitefish issue and should not affect Bozeman. The proposed amendment is to eliminate Bozeman from the bill.

EXHIBIT (sth37a07)

REPRESENTATIVE HEDGES asked if they remove Bozeman from the bill

would it change the way the sale of the Bozeman facility it transferred if the facility goes. REPRESENTATIVE BROWN said there was no concern removing Bozeman for the bill.

Sheri Heffelfinger clarified the effect of the amendment and that Bozeman would be left in the same situation it was before the bill which was it assumes that armory must be sold, however an argument could be made to transfer if they wanted to.

REPRESENTATIVE OLSON asked if this were to go through and allow this to happen in Whitefish, would the Department of Military Affairs have to agree to it. Sheri Heffelfinger said they will still have the option, they do not have to agree.

Motion/Vote: REP. BROWN moved that HB 450 BE AMENDED. Motion carried 15-3 with Jacobson, Ripley, and Walters voting no.

Motion: REP. BROWN moved that HB 450 DO PASS AS AMENDED.

Discussion:

REPRESENTATIVE BROWN said Whitefish is a growing community who raises for worthy projects. They have many benefactors in that area. Whitefish is not a poor community and their land value is very high.

REPRESENTATIVE DELL stated he does not like to vote on increased bonding. If they really want the armory they can raise the funds to purchase it. He feels the money from the building should be used to pay off the new building that is being built. Whitefish is a community that is financially stable and are able to handle this situation without the committee creating a window of opportunity.

Motion/Vote: REP. BROWN moved that HB 450 DO PASS AS AMENDED. Motion failed 5-13 with Mood, Brown, Hedges, Jent, and Lenhart voting aye.

Substitute Motion/Vote: REP. BARRETT made a substitute motion that HB 450 BE TABLED. Substitute motion carried 13-5 with Brown, Hedges, Jent, Lenhart, and Mood voting no.

ADJOURNMENT

Adjournment: 10:53 A.M.

REP. ALLAN WALTERS, Chairman

RUTHIE PADILLA, Secretary

AW/RP

EXHIBIT (sth37aad)